

SECTION 1.0

INTRODUCTION

1.1 EIS PROCESS

This Environmental Impact Statement (EIS) has been prepared by the Bureau of Indian Affairs (BIA) to assess the environmental effects of taking 223± acres into Federal trust for the Menominee Indian Tribe of Wisconsin (Tribe). The BIA is the Federal Agency that is charged with reviewing and approving tribal applications pursuant to 25 CFR 151 to take land into Federal trust status. For the purpose of this EIS, the BIA serves as the Lead Agency for compliance with the National Environmental Policy Act (NEPA).

The BIA invited several Federal, state, and local agencies to act as cooperating agencies for purposes of NEPA. These agencies included the Environmental Protection Agency (EPA) Region 5, the National Indian Gaming Commission (NIGC), the Wisconsin Department of Natural Resources (WDNR), the Wisconsin Bureau of Aeronautics (WBA), the County of Kenosha, and the City of Kenosha. The BIA has also asked the Tribe, as applicant, to be a cooperating agency, as impacts would affect the Menominee Indian Reservation at Keshena, Wisconsin, pursuant to 40 CFR 1508.5.

Cooperating agencies for the EIS are the Tribe, the NIGC, the City of Kenosha, and the County of Kenosha. EPA, WBA and WDNR declined to be cooperating agencies, but requested to be involved in the review process with the preliminary Draft EIS. EPA is involved under Section 301 of the Clean Air Act in commenting on the EIS. The EPA will also rank the EIS and notice the EIS for the public comment period. The Wisconsin Department of Transportation (WisDOT) indicated it would provide input for the traffic analysis without being named a cooperating agency.

The Forest County Potawatomi Community (FCP) requested cooperating agency status. The FCP operates an existing casino in Milwaukee, Wisconsin, that would likely compete for gaming revenues with the proposed Menominee casino in Kenosha. The potential loss of gaming revenues at the FCP's Milwaukee casino could potentially have socio-economic impacts on the FCP. The BIA Midwest Region declined the community's request to be a cooperating agency, primarily based upon its lack of jurisdiction under 40 CFR 1508.15. Recognizing FCP's special expertise under 40 CFR 1508.26 regarding matters of its own revenue, the BIA offered to conduct government-to-government consultation with the FCP as an alternative.

This document has been completed in accordance with the requirements set forth in NEPA (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR 1500-1508); and the BIA's NEPA Handbook (30 BIAM supplement 1). NEPA requires the BIA review and analyze the environmental consequences associated with the proposed actions. This document provides a detailed description of the development alternatives and an analysis of the potential consequences associated with the development of this project. The No Action Alternative is also addressed as required under NEPA.

PROJECT LOCATION

Dairyland Greyhound Park (DGP) is located in the southeastern quadrant of Section 31, Township 2 North, Range 22 East, City of Kenosha, Kenosha County, Wisconsin. It is approximately 6 miles west of the center of the City of Kenosha, and 6.3 miles north of the Illinois border (**Figures 1-1 and 1-2**). The project site is bordered by 52nd Street (State Trunk Highway 158) to the north; private business, agricultural land and 120th Avenue (East Frontage Road) to the west; 60th Street (County Trunk Highway K), agricultural land and residences to the south; and agricultural land and 104th Avenue to the east.

Figure 1-3 shows the existing DGP site and the proposed trust parcel. Interstate 94 (I-94) provides regional access to the project site between downtown Milwaukee and the northern suburbs of Chicago, IL, which are located approximately 30 miles to the north and to the south, respectively. Local access to the DGP is provided directly from 52nd Street (State Highway 158) and 60th Street provides emergency access. From the project site, I-94 extends south to Chicago. The northward length of I-94 extends to Milwaukee where it turns west until its terminus in Montana.

SUMMARY OF THE PROPOSED ACTION

The Federal actions analyzed in this EIS involve 1) placing 223± acres into Federal trust for the Tribal government and 2) approving the management contract. The foreseeable consequence of these actions will be the implementation of one of the alternatives analyzed in this EIS. The Proposed Alternative includes the development of a hotel and casino complex, conference center, water park, parking structure, uncovered parking, and other ancillary uses on the project site. The existing racing facilities would be maintained. These actions are referred to collectively as the Proposed Alternative and are described in detail within **Chapter 2.0** of this EIS.

Insert Figure 1-1

Insert Figure 1-2

Insert Figure 1-3

1.2 PURPOSE AND NEED FOR THE PROPOSED ACTION

The purpose and need for the proposed action is to expand the Tribe's net revenue base through gaming, hospitality, and entertainment operations as authorized under the Indian Gaming Regulatory Act (IGRA). The Tribe, as applicant, is requesting the transfer of the 223± acre DGP property into Tribal Trust for the development of gaming, lodging and recreation facilities in furtherance of this goal.

The economic need for the Proposed Project is evident in the current socioeconomic conditions of the Tribe, many of whose members subsist on incomes below established poverty levels. Some of these conditions are residual effects of the 1954-1973 termination period of the Menominee Tribe. The Proposed Project will allow the Tribal government to provide better services in response to current economic conditions and a growing Tribal population.

The revenues derived from the Proposed Project, if approved, would in turn be used for land purchases, business and community development, and proportionate share allocations to local government in accordance with the Inter-Governmental Agreement (IGA) between the Tribe and the City and County of Kenosha (**Appendix B**). Such Tribal development will include, but not be limited to, support for the Tribal judicial system in the maintenance of Tribal law and order, Tribal services, and contributions to a Tribal general and savings funds. Moreover, the proposed facilities would provide a regional source of employment and entertainment.

According to Section 2701(4) of IGRA, a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government. In carrying out the trust responsibility of the United States with respect to the Tribe, the BIA supports the Tribal Government in its effort to improve the long-term economic condition of the Tribe and its members through the development of a stable, sustainable source of employment and revenue. Given the remote location of the Tribe's reservation and existing gaming facility therein, the present revenues are unable to meet the current and future financial needs of the Tribe.

The DGP was selected based on criteria including, but not limited to: 1) suitability of location in relation to markets (along I-94 between Milwaukee and Chicago); 2) availability and price of the property; 3) cultural and environmental considerations; 4) compatibility with current and surrounding land uses; and 5) community support. Specifically, the construction of a gaming facility on currently developed land minimizes potential environmental impacts. The DGP will be evaluated for its eligibility to be taken into trust based on 25 CFR 151.11.

Pursuant to 25 U.S.C. §§ 2719(b)(1)(A), also referred to as "Section 20 of IGRA (PL 100-47)," lands taken into trust after October 17, 1988, can be used for gaming if the Secretary of the Interior determines that (1) such an establishment would be in the best interest of the Tribe and its

members, and (2) that such a facility would not pose a detriment to the surrounding community. This EIS provides the information necessary for the Secretary of the Interior to make the above Two-Part Determination.

1.3 OVERVIEW OF THE ENVIRONMENTAL REVIEW PROCESS

NEPA requires that an EIS be prepared for every major Federal action significantly affecting the quality of the human environment. This document has been completed in accordance with the requirements set out in NEPA (42 USC 4321 *et seq.*), the CEQ Regulations for Implementing NEPA (40 CFR 1500-1508), and the BIA's NEPA handbook (30 BIAM Supplement 1).

This EIS has been prepared to analyze and document the environmental consequences associated with the proposed transfer of 223± acres of land into Federal trust status for the Tribal Government. Additionally, the EIS analyzes a range of alternatives including, 1) the Proposed Alternative, 2) the Reduced Intensity Alternative, 3) the Keshena Site Alternative, 4) the Hotel-Conference Center and Recreational Development, and 5) the No-Action Alternative.

The BIA published a Notice of Intent to Prepare an EIS (NOI) for the proposed action in the *Federal Register* on June 23, 2004, with a correction published on July 7, 2004. The NOI described the proposed action and the reasons why an EIS would be prepared. It also solicited comments from the public and from governmental agencies regarding the issues to be addressed in the EIS, and announced a scoping meeting in Kenosha on August 3, 2004. The public comment period ended on August 20, 2004. During the scoping process, the BIA solicited cooperating agency status from both Federal and non-Federal agencies.

This Draft EIS (DEIS) will be distributed to Federal, Tribal, State, and local agencies and other interested parties for a 45-day review and comment period. The review and comment period begins after the Notice of Filing with the USEPA in the *Federal Register*. The Notice of Availability (NOA) published by the BIA provides the time and location of public hearing(s) on the DEIS. Comments will be addressed in a Final EIS (FEIS) along with any changes that are made to the project of the environmental analysis.

1.4 SCOPING

The BIA NEPA Handbook and CEQ Regulations for implementing NEPA require a process, referred to as “scoping,” for determining the range of issues to be addressed during the environmental review of a proposed action (§1501.7). The scoping process entails a determination of relevant issues by soliciting comments from agencies, organizations and individuals. The NOI specified a comment period during which comments and concerns on the

scope and implementation of the EIS could be submitted. This comment period ended on August 20, 2004. The issues that were raised during the NOI comment period were summarized within the *Kenosha Casino EIS Scoping Report*. This report was published by the BIA and made available for review at the BIA's Midwest Region Office at One Federal Drive, Room 550, Fort Snelling, MN 55111. The Scoping Report was also mailed to interested parties and posted on the Tribe's project web page. This EIS has responded to the relevant issues and concerns identified in the Scoping Report.

1.5 REGULATORY REQUIREMENTS, PERMITS AND APPROVALS

Implementation of the Proposed Project will require Tribal, Federal, and certain state permits and approvals. **Table 1-1** identifies each responsible agency and the potential permit or approval required. Since the Proposed Project would be located on Federal trust land, most permitting authority for the project rests with Federal agencies. All applicable permits and approvals will be obtained at the appropriate stage of project implementation.

TABLE 1-1
POTENTIAL PERMITS AND APPROVALS REQUIRED

Agency	Permit or Approval	Alternative
Federal		
National Indian Gaming Commission	Approval of Tribal gaming ordinances Approval of Management Contract	A, B, C
Secretary of the Interior	Two-Part Determination under Section 20 of IGRA	A, B
	Transfer of the 223± acre project site into Federal trust status for the Tribal Government	A, B, D
U. S. Fish & Wildlife Service HCP Coordinator	Karner Blue Butterfly Incidental Take Permit and Mitigation Payment	C*
U.S. Environmental Protection Agency	Issuance of National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities as required by the Clean Water Act	A, B, C, D
U. S. Army Corps of Engineers	Jurisdictional Determination of Waters of the United States	A, B, D
Bureau of Indian Affairs	National Historic Preservation Act Finding of Significance	A, B, C, D
State		
Wisconsin SHPO	National Historic Preservation Act Finding of Significance	A, B, D
Wisconsin Department of Transportation	Approval of an Encroachment Permit for the construction of improvements along the property frontage with SR-94. Approval of an Encroachment Permit for the construction of mitigation improvements at intersections on I-94.	A, B, C
Wisconsin Bureau of Aeronautics	FAA Runway Protection and Airport Overlay District Conformity Review	A, D
Wisconsin Department of Natural Resources	Consistency Review, Wisconsin Coastal Management Plan	A, B, D
	Air Quality Compliance Review	A, B, C, D

NOTES: A—Proposed Casino-Hotel;
 B—Reduced Intensity Alternative;
 C—Keshena Site Alternative;
 D—Hotel-Conference Center/Recreational Development;
 E—No Action.
 * The current Menominee Casino-Bingo-Hotel is within critical habitat for this Federally listed, endangered species.

SOURCE: AES 2005.